
SHRI G.S. SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V. NAGARJUNA REDDY
WRIT APPEAL NO. 960 OF 2006

BETWEEN

NTR University of Health Sciences,
Vijayawada & another

.....Appellants

And

T. Deepthi & others

.....Respondents

Counsel for the appellants : Shri D.V. Nagarjuna Babu

Counsel for the respondents : Shri P. Venu Gopal

Dated: 22.09.2006

::JUDGMENT::

Per G.S. SINGHVI, CJ

This appeal is directed against order dated 03.02.2006 passed by the learned Single Judge in Writ Petition No. 27027 of 2005, whereby he directed the appellant-university to extend the benefit of upward revision of marks to the writ petitioners and simultaneously ignore any downward revision of marks during the exercise undertaken pursuant to interim order passed by the Court and further directed the university to declare that the successful petitioners have passed the 1st year M.B.B.S. examination.

Respondents - T. Deepthi, Koduru Kadambari, Madadi Vasurchana Reddy and T. Srilatha, who were admitted in M.B.B.S. course in Pratima Medical College, Karimnagar and M.N.R. Medical College, Sanga Reddy respectively appeared in the first M.B.B.S. examination held in September, 2005. The result of the examination was declared on 30.11.2005. All of them were declared fail because they could not secure minimum pass marks. They filed writ petition under Article 226 of the Constitution with the complaint that even though they had done exceedingly well in the papers of Physiology and Anatomy, their answer scripts had not been properly assessed. In paragraphs 6 and 7 of the affidavit filed by respondent No.1 – T. Deepthi, it was averred that all the petitioners are meritorious and hardworking students; that they had prepared well for the examination and had answered the questions almost accurately and correctly and yet they were awarded zero marks for certain questions. It was further averred that almost 300 students of different medical colleges were declared fail and, therefore, it was a fit case for reassessment of the answer scripts.

After taking note of the fact that in many cases the examiner had awarded zero marks despite the fact that the answers were written in a fairly extensive manner, the learned Single Judge passed interim order dated 4-1-2006. For the sake of convenience, that order is reproduced below:

“ In these writ petitions, the petitioners are the students of M.B.B.S. course. They have completed part-I thereof and have taken examinations in the subjects of Anatomy, Physiology and Bio-Chemistry from various colleges. Their results were declared on 30.11.2005. On their verification, they came to know that they have failed in one subject or the other. Except two of them, all the other petitioners were declared failed, since they fell short by one mark. For one petitioner, the shortage is four (4) marks and for another, it is two(2)marks.

In accordance with the procedure in vogue in the University, the petitioners applied for retotalling of the marks in their respective answer scripts. During verification, it emerged that the Examiners have awarded zero marks to certain answers. They contend that having regard to the nature of answers given by them, it is quite improbable that they must be awarded zero marks.

In the context of the fact that they have failed with the shortage of almost one mark, they have approached this Court with a prayer to direct revaluation of their answer scripts. Extensive submissions were made on behalf of the petitioners and the University.

To satisfy itself about the claim of the petitioners, this Court directed the learned standing counsel to produce the concerned answer scripts. A perusal of the answer scripts discloses that in many cases, the Examiner had awarded zero marks, though the answers were written in a fairly extensive manner. It is not for this Court to reassess the evaluation made by the Examiners. At the same time, the petitioners should not be left with an impression that an answer, which was given to the best of their capacity, was not properly rewarded.

In the absence of any provision for revaluation, this Court cannot direct the respondents to undertake the same. On earlier occasions, when similar situations have arisen, the concerned Heads of Departments were directed to go through the relevant answer scripts and to satisfy themselves as to the accuracy of evaluation, done by the Examiners. Such a procedure had not only resulted in the satisfaction of the students, but also added to the fairness of the University.

Having regard to the facts and circumstances of the case, the University is directed to place the answer scripts of the petitioners, in the subjects, in which they have been awarded less than the minimum marks, before the concerned Head of the Department. The Head of the Department, in turn, shall verify the answer scripts, particularly, the answers, which were awarded zero marks, either by himself or by taking the assistance of the concerned subject expert.

It shall be open to them to award marks according to their own evaluation and report the same to the University. In case it emerges that the concerned petitioners have been awarded any marks over and above what they have been awarded earlier, a revised memorandum of marks shall also be issued.

This exercise shall be completed within two weeks from the date of receipt of a copy of this order.

Post the writ petitioners 'for judgment' on 27.01.2006, for final orders.”

In compliance of the aforementioned order, the answer scripts of the petitioners were forwarded to Head of the Department, who, after undertaking exercise for revaluation, submitted report to the university indicating therein that in some cases the marks have been increased and in some cases the marks have been decreased.

After considering the changes brought about in the marks awarded to the petitioners, the learned Single Judge passed order dated 3-2-2006, the relevant portions of which read as under:

“ Basically, this Court cannot act as an appellate authority in the matter of evaluation of answer scripts. On finding some force in the submissions made by the learned counsel appearing on behalf of the petitioners, this Court felt that the matter be entrusted to the concerned Head of the Department, so that the students are not left with an impression that they have been subjected to injuries.

Through a letter, dated 01.02.2006, the Registrar of the University has enclosed the

result of re-examination of the answer scripts of the petitioners, in terms of the directions issued by this Court. It has so emerged that in the subjects of Physiology and Anatomy, there was an upward revision of marks in favour of various petitioners and in the subject of Physiology, almost without any exception, there was a downward revision. The basic purpose of directing the reexamination of the answer scripts by the Head of the Department was to explore the possibility of awarding marks to the petitioners, for the answers, either which were not awarded any marks at all or were awarded marks disproportionate to the content of the answer. In the process, the petitioners cannot be subjected to a higher disadvantage than what they were already facing before approaching this Court.

For the foregoing reasons, the writ petitions are disposed of, directing that the University shall extend the advantage of the upward revision to the petitioners and ignore any downward revision during the course of the exercise undertaken by the University, in pursuance of the orders passed by this Court. Consequently, if any of the petitioner deserve to be declared as pass, the steps in this regard shall be taken, within a period of one week from the date of receipt of a copy of this order.”

Shri D.V. Nagarjuna Babu, learned counsel for the appellants argued that the direction given by the learned Single Judge for upward revision of marks of the respondents is liable to be set aside because there is no provision in the University Act or Statutes, Rules and Regulations for revaluation of the answer scripts of M.B.B.S. examination and in the absence of such provision, the learned Single Judge could not have ordered indirect revaluation of the answer scripts of the respondents and given them the benefit of revaluation. He relied on the judgment of the Supreme Court in **Maharashtra State Board of Secondary and Higher Secondary Education v. Paritosh Bhupeshkumar Sheth**^[1] and order dated 06.04.2006 passed by this Court in Writ Appeal No. 344 of 2006 – **Jajala P. Chandra Rao v. N.T.R. University of Health Sciences, Andhra Pradesh at Vijayawada** and argued that the mechanism evolved by the learned Single Judge to bypass the law laid down by the Supreme Court and the Division Bench should be disapproved.

Shri P. Venu Gopal, learned counsel for the respondents fairly conceded that there is no provision in the University Act or Statutes, Rules and Regulations for revaluation of the answer scripts of M.B.B.S. examination, but submitted that the Division Bench may not upset the direction given by the learned Single Judge because most of the respondents have already been admitted to the second year of M.B.B.S. and are prosecuting their studies in the higher class.

We have thoughtfully considered the entire matter. The moot question, which requires determination in these appeals, is whether in the absence of any statutory provision in the University Act or Statutes, Rules and Regulations framed there under, this Court can, in exercise of its power under Article 226 of the Constitution of India, compel the university authorities to revalue the answer scripts simply because some unsuccessful students come with the complaint that they have not been properly assessed and the Court feels that some error may have been committed in the assessment of the answer scripts.

In our opinion, the aforementioned question must be answered in negative. The admissions to educational institutions and examinations etcetera are regulated by statutory provisions framed by the Legislature and delegated legislation framed by the competent bodies comprising of experts in the field of education. The students, who seek admission in the universities and institutions of higher education, are well-versed with the scheme of examination. If there is no provision for revaluation in the University Act or Statutes, Rules and Regulations, the students know that they are not entitled to seek revaluation. In such situation, complaint made by the unsuccessful candidate that he/she has not been properly assessed cannot be entertained by the Court by accepting the plea of compassion or by presuming that some irregularity might have been committed by the examiner in assessing the answer scripts and, on that account, career of the student is likely to be jeopardized. The Court must give due respect to the wisdom

and competence of the examiners who are entrusted with the task of assessing the candidates and refrain from imposing its views on the experts in regard to the merit of the answers given by the candidates. An idealistic notion of fairness cannot be imported by the Court for issuing direction for revaluation of the answer scripts of the candidates. Likewise, in its zeal to do the so-called justice to the aggrieved students, the Court cannot call upon the university and its functionaries to act in derogation of the statutory provisions.

In **Maharashtra State Board of Secondary and Higher Secondary Education v. Paritosh Bhupeshkumar Sheth (supra)**, the Supreme Court considered the question whether a candidate has a right to demand inspection, verification and revaluation of answer books and whether the regulations framed by the Board excluding the right of revaluation are unreasonable and arbitrary. A Division Bench of Bombay High Court had struck down Regulation 104(3) of the Regulations framed by the Board which debarred a candidate from seeking disclosure or inspection of the answer books and other connected documents on the ground of confidentiality. However, on the issue of revaluation of the answer books, the Judges constituting the Bench could not reach an agreement. One Judge held that the prohibition contained in Regulation 104 (1) against the revaluation of answer books was illegal. The other Judge expressed doubts on this issue, but ultimately agreed with the conclusion recorded by the first Judge. On appeal, the Supreme Court considered whether Regulation 104(3) was ultra vires to the regulation-making power of the Board and observed:

“..... The High Court was of the view that the said contention of the petitioners had to be examined against the backdrop of the fact disclosed by some of the records produced before it that in the past there had been a few instances where some students possessing inferior merits had succeeded in passing off the answer papers of other brilliant students as their own by tampering with seat numbers or otherwise and the verification process contemplated under Regulation 104 had failed to detect the mischief. In our opinion, this approach made by the High Court was not correct or proper because the question whether a particular piece of delegated legislation – whether a rule or regulation or other type of statutory instrument – is in excess of the power of subordinate legislation conferred on the delegate has to be determined with reference only to the specific provisions contained in the relevant statute conferring the power to make the rule, regulation, etc. and also the object and purpose of the Act as can be gathered from the various provisions of the enactment. It would be wholly wrong for the Court to substitute its own opinion for that of the Legislature or its delegate as to what principle or policy would best serve the objects and purposes of the Act and to sit in judgment over the wisdom and effectiveness or otherwise of the policy laid down by the regulation-making body and declare a regulation to be ultra vires merely on the ground that, in the view of the Court, the impugned provisions will not help to serve the object and purpose of the Act. So long as the body entrusted with the task of framing the rules or regulations acts within the scope of the authority conferred on it, in the sense that the rules or regulations made by it have a rational nexus with the object and purpose of the statute, the Court should not concern itself with the wisdom or efficaciousness of such rules or regulations. It is exclusively within the province of the Legislature and its delegate to determine, as a matter of policy, how the provisions of the statute can best be implemented and what measures, substantive as well as procedural would have to be incorporated in the rules or regulations for the efficacious achievement of the objects and purposes of the Act. It is not for the Court to examine the merits or demerits of such a policy because its scrutiny has to be limited to the question as to whether the impugned regulations fall within the scope of the regulation-making power conferred on the delegate by the statute. Though this legal position is well-established by a long series of decisions of this Court, we have considered it necessary to reiterate it in view of the manifestly erroneous approach made by the Court to the consideration of the question as to whether the impugned clause (3) of Regulation 104 is ultra vires. In the light of the aforesaid principles, we shall now proceed to consider the challenge levelled against the validity of the Regulation 104(3).”

The Supreme Court then examined the reasons assigned by the High Court for declaring Regulation 104(3) as ultra vires to Section 36 of the Maharashtra Secondary and Higher Secondary Boards Act, 1965 and

proceeded to observe:

“ We do not, therefore, find it possible to accept as correct the view expressed by the High Court that clause (3) of Regulation 104 is ultra vires on the ground of its being in excess of the regulation-making power conferred on the Board. Instead of confining itself to a consideration whether the impugned regulations fall within the four corners of the statute and particularly of Section 36 thereof which confers the power to make regulations, the High Court embarked upon an investigation as to whether the prohibition against disclosure and inspection of answer books and other documents imposed by the impugned clause (3) of Regulation 104 would, in practice, effectively serve the purpose of the Act ensuring fair play to the examinees. The High Court was of the opinion that in deciding the question as to whether the impugned clause was ultra vires, the Court had to bear in mind “the glaring deficiencies” found to exist in the working of the system in spite of all the elaborate precautionary measures taken for preventing such lapses which were detailed in the affidavit in reply and “the far-reaching implications of the said deficiencies on the future of the examinees” and it went on to observe that the “nexus or absence thereof between the purposes of the Act or the purpose of the examination and the prohibition against inspection in the impugned clause can be discovered only by reference to these facts”. Then the High Court proceeded to make following further observations:

The examinee is the person affected by miscalculation of totals, omissions to examine any answer, misplacement of the supplementaries of the answer books and misplacement or tampering with the said record in any manner, if any. Adverse result creates suspicion in his mind about the possible errors in the system and his claim to inspection against this background must be held to be reasonable and calculated to subserve the purposes of the examination as also the overall purposes of the Act. This enables him to verify if his suspicions are ill or well founded. Existence of some overriding factors alone can justify denial of his claim.

The High Court concluded the discussion by stating: “Such confidentiality cannot be found to be serving any purpose of the Act merely because it was acquiesced in the past or accepted without challenge. According to Mr. Setalvad, authority to treat these documents confidential is implicit in the very power to hold the examination itself, it being necessary to secure effective achievement of the process. This is too broad a statement to admit of any scrutiny. No such power can, however, be implied unless its indispensability of treating the question papers, and names of the question setters and examiners confidential, up to a certain stage can easily be appreciated. Their premature disclosure or exposure may defeat the purpose of examinations and make a mockery of its very conception. It is, however, difficult to see any purpose of continuing to keep them confidential at any rate after the declaration of the results.

In our opinion, the aforesaid approach made by the High Court is wholly incorrect and fallacious. The Court cannot sit in judgment over the wisdom of the policy evolved by the Legislature and the subordinate regulation-making body. It may be a wise policy which will fully effectuate the purpose of the enactment or it may be lacking in effectiveness and hence calling for revision and improvement. But any drawbacks in the policy incorporated in a rule or regulation will not render it ultra vires and the Court cannot strike it down on the ground that, in its opinion, it is not a wise or prudent policy, but is even a foolish one, and that it will not really serve to effectuate the purposes of the Act. The Legislature and its delegate are the sole repositories of the power to decide what policy should be pursued in relation to matters covered by the Act and there is no scope for interference by the Court unless the particular provision impugned before it can be said to suffer from any legal infirmity, in the sense of its being wholly beyond the scope of the regulation-making power or its being inconsistent with any of the provisions of the parent enactment or in violation of any of the limitations imposed by the Constitution. None of these vitiating factors are shown to exist in the present case and hence there was no scope at all for the High Court to invalidate the provision contained in clause (3) of Regulation 104 as ultra vires on the grounds of its being in excess of the regulation-making power conferred on the Board. Equally untenable, in our opinion, is the next and last ground by the High Court for striking down clause (3) of Regulation 104 as unreasonable, namely, that it is in the nature of a bye-law and is ultra vires on the ground of its being an unreasonable provision. It is clear from the scheme of the Act and more particularly, Sections 18, 19 and 34 that the Legislature has laid down in broad terms its policy to provide for the establishment of a State Board and Divisional Boards to regulate matters pertaining to secondary and higher secondary education in the State and it has authorized the State Government in the first instance and subsequently the Board to enunciate the details for

carrying into effect the purposes of the Act by framing regulations. It is a common legislative practice that the Legislature may choose to lay down only the general policy and leave to its delegate to make detailed provisions for carrying into effect the said policy and effectuate the purposes of the statute by framing rules/regulations which are in the nature of subordinate legislation. Section 3(39) of the Bombay General Clauses Act, 1904, which defines the expression 'rule' states: "Rule shall mean a rule made in exercise of the power under any enactment and *shall include any regulation made under a rule or under any enactment*". It is important to notice that a distinct power of making bye-laws has been conferred by the Act on the State Board under Section 38. The Legislature has thus maintained in the statute in question a clear distinction between 'bye-laws' and 'regulations'. The bye-laws to be framed under Section 38 are to relate only to procedural matters concerning the holding of meetings of the State Board, Divisional Boards and the Committee, the quorum required, etc. More important matters affecting the rights of parties and laying down the manner in which the provisions of the Act are to be carried into effect have been reserved to be provided for by regulations made under Section 36. The Legislature, while enacting Sections 36 and 38, must be assumed to have been fully aware of the niceties of the legal position governing the distinction between rules/regulations properly so called and bye-laws. When the statute contains a clear indication that the distinct regulation-making power conferred under Section 36 was not intended as a power merely to frame bye-laws, it is not open to the Court to ignore the same and treat the regulations made under Section 36 as mere bye-laws in order to bring them within the scope of justifiability by applying the test of reasonableness."

The next issue considered by the Supreme Court was whether a provision, which is akin to bye-laws, can be struck down on the ground of unreasonableness and observed:

"The legal position is now well-established that even a bye-law cannot be struck down by the Court on the ground of unreasonableness merely because the Court thinks that it goes further than "is necessary" or that it does not incorporate certain provisions which, in the opinion of the Court, would have been fair and wholesome. The Court cannot say that a bye-law is unreasonable merely because the Judges do not approve of it. Unless it can be said that a bye-law is manifestly unjust, capricious, inequitable, or partial in its operation, it cannot be invalidated by the Court on the ground of unreasonableness. The responsible representative body entrusted with the power to make bye-laws must ordinarily be presumed to know what is necessary, reasonable, just and fair. In this connection, we may usefully extract *Kruse v. Johnson* (1898) 2 QB 91, 98, 99 : 78 LT 647 : 46 WR 630 (DC) (quoted in *Trustees of the Port of Madras v. Aminchand Pyarelal* (1976) 1 SCR 721, 733 : (1976) 3 SCC 167, 178 : AIR 1975 SC 1935) (SCC p. 178, para 23) :

When the Court is called upon to consider the bye-laws of public representative bodies clothed with the ample authority which I have described, accompanied by the checks and safeguards which I have mentioned, I think the consideration of such bye-laws ought to be approached from a different standpoint. They ought to be supported if possible. They ought to be, as has been said, 'benevolently interpreted', and credit ought to be given to those who have to administer them that they will be reasonably administered. The learned chief Justice said further that there may be cases in which it would be the duty of the Court to condemn bye-laws made under such authority as these were made (by a county council) as invalid because unreasonable. But unreasonable in what sense? If, for instance, they were found to be partial and unequal in their operation as between different classes; if they were manifestly unjust; if they disclosed bad faith; if they involved such oppressive or gratuitous interference with the rights of those subject to them as could find no justification in the minds of reasonable men, the Court might well say, "Parliament never intended to give authority to make such rules ; they are unreasonable and ultra vires". But it is in this and in this sense only, as I conceive, that the question of reasonableness or unreasonableness can properly be regarded. A bye-law is not unreasonable merely because particular Judges may think that it goes further than is prudent or necessary or convenient, or because it is not accompanied by an exception which some Judges may think ought to be there.

We may also refer with advantage to the well known decision of the Privy Council in *Slattery v. Naylor* {(1888 13 AC 446 : 59 LT 41 : 36 WR 897 (PC))}, where it has been laid down that when considering whether a bye-law is reasonable or not, the Court would need a strong case to be

made against it and would decline to determine whether it would have been wiser or more prudent to make the bye-law less absolute or will it hold the bye-law to be unreasonable because considerations which the Court would itself have regarded in framing such bye-law have been overlooked or rejected by its framers.”

The Supreme Court rejected the theory that revaluation of answer scripts is a part of fair play in the State action and held:

“ We are unable to agree with the further reason stated by the High Court that since “every student has a right to receive fair play in examination and getting appropriate marks matching his performance.” It will be a denial of the right to such fair play if there is to be a prohibition on the right to demand revaluation and unless a right to revaluation is recognized and permitted there is an infringement of rules of fair play. What constitutes fair play depends upon the facts and circumstances relating to each particular given situation. If it is found that every possible precaution has been taken and all necessary safeguards provided to ensure that the answer books inclusive of supplements are kept in safe custody so as to eliminate the danger of their being tampered with and that the evaluation is done by the examiners applying uniform standards with checks and cross-checks at different stages and that measures for detection of malpractice, etc. have also been effectively adopted, in such cases, it will not be correct on the part of the Courts to strike down the provision prohibiting revaluation on the ground that it violates the rules of fair play.

..... We do not consider it necessary to burden this judgment with a recapitulation of all the details furnished in those paragraphs, and it would suffice to state that the procedure evolved by the Board for ensuring fairness and accuracy in evaluation of the answer books has made the system as foolproof as can be possible and it meets with our entire satisfaction and approval. Viewed against this background, we do not find it possible to agree with the views expressed by the High Court that the denial of the right to demand a revaluation constitutes a denial of fair play and is unreasonable. The Board is a very responsible body. The candidates have taken the examination with full awareness of the provisions contained in the regulations and in the declaration made in the form of application for admission to the examination they have solemnly stated that they fully agree to abide by the regulations issued by the Board. In the circumstances, when we find that all safeguards against errors and malpractices have been provided for, there cannot be said to be any denial of fair play to the examinees by reason of the prohibition against asking for revaluation.”

In Writ Appeal No.344 of 2006 - **Jajala P. Chandra Rao v. N.T.R. University of Health Sciences, Andhra Pradesh at Vijayawada** (supra), the Division Bench referred to an earlier judgment in Writ Appeal No.2366 of 2005 and observed:

“ in exercise of its power under Article 226 of the Constitution of India, the High Court cannot sit in appeal over the assessment made by the teachers of the answer scripts of the students and substitute its opinion for that of the assessor on the merits of the answers given by the student and further that the Court will be loath to interfere with the decision taken by the academic bodies except when such decision is per se contrary to law or is vitiated due to mala fides. In this connection, reference can appropriately be made to the judgment of the Supreme Court in **University of Mysore v. S. Govinda Rao** (AIR 1965 SC 792).

In the same case, the Division Bench took notice of order dated 03.02.2006 passed by the learned Single Judge in Writ Petition No.27027 of 2005 and batch and observed:

“ Before concluding, we may advert to order dated 03.02.2006 passed by another learned Single Judge in Writ Petition No. 27027 of 2005 and batch, a copy of which has been annexed with the paper book of this appeal. In that case, the learned Single Judge directed the university to send the answer scripts of the papers in which the petitioners had failed to secure minimum marks to the Head of the Department, with a further direction to the latter to verify the answer scripts either by himself or by taking the assistance from the concerned subject experts. After taking cognizance of the result of that exercise, the learned Single Judge disposed of the writ petition by directing the university to extend the advantage of upward revision to the petitioners and ignore any downward revision and then declare them ‘pass’.

We have serious reservation regarding the legality and propriety of the course adopted by the learned Single Judge to direct the university to get the answer scripts of the candidates re-scrutinized and that too without deciding the writ petition and ignoring the law laid down by the Supreme Court in **Maharashtra State Board of Secondary and Higher Secondary Education v. Paritosh Bhupeshkumar Sheth** (2 supra). However, we refrain from expressing final opinion on this aspect because learned counsel for the university gave out that the respondents have filed appeal against that order.”

In view of the law laid down by the Supreme Court in **Maharashtra State Board of Secondary and Higher Secondary Education v. Paritosh Bhupeshkumar Sheth** (supra) and the fact that the University Act or Statutes, Rules and Regulations framed there under do not provide for revaluation of answer scripts of the M.B.B.S. examination, it has to be held that the exercise undertaken by the learned Single Judge by directing Head of the Department either himself or through the subject expert to undertake revaluation of the answer scripts was totally unwarranted and uncalled for. It was not the pleaded case of the respondents that the examiners had awarded less marks or zero marks in some questions of the papers of Anatomy and Physiology due to bias, prejudice or ill-will. Even if such allegations had been made, the learned Single Judge could not have passed interim order for revaluation of the answer scripts because the concerned examiners were not impleaded as parties and, on that account, there was no occasion for the Court to issue notice to them to explain their position. In any case, in the absence of such allegations, it was not open to the learned Single Judge to evolve a mechanism to bypass the law laid down by the Supreme Court, which is binding on this Court by virtue of Article 141 of the Constitution.

For the reasons recorded above, the appeal is allowed. The impugned order is set aside. As a consequence, the writ petition filed by the respondents shall stand dismissed.

The issue, which remains to be considered, is whether those of the writ petitioners (respondents) who have been admitted to the second year of the M.B.B.S. as a consequence of revision of their result should be reverted to the first year on the premise that they had been declared unsuccessful on 30.11.2005. In this context, it is apposite to mention that on 14.09.2006, the Court had, after taking cognizance of the fact that the writ petitioners have already been admitted to the second year of the course, asked the learned counsel for the university to seek instructions and make a statement whether it is possible to accommodate the respondents and allow them to continue their studies in the second year.

Today, Shri Nagarjuna Babu stated that he had contacted the Vice-Chancellor of the university, who instructed him to convey that the university will not ask for the reversion of the successful students to first year of the course provided that they make representation to the Vice-Chancellor for being allowed to continue in the second year of the course.

Therefore, we direct the writ petitioners (respondents) to make appropriate representation to the Vice-Chancellor within two weeks. The latter shall, keeping in view the undertaking given before the Court, allow the successful students to continue their studies in the second year by treating them eligible for admission in that year.

As a caveat, we deem it proper to make it clear that this arrangement made by the universities on purely humanitarian ground shall, under no circumstance, be treated as a precedent for future and be invoked by anybody for similar relief.

G.S. SINGHVI, CJ

C.V. NAGARJUNA REDDY, J

22.09.2006

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[\[1\]](#) (1984) 4 Supreme Court Cases 27